

## **REMARKS**

In response to the above-identified Office Action (“Action”), the Applicants submit the following amendments and remarks and seek reconsideration thereof. Claims 3-6, 8, 9 and 11-20 are pending in the present application. Claims 3-6, 8, 9, 11, and 13-20 are rejected. Claim 12 is objected to. In this response, claims 9, 12, 14, 16, 19, and 20 are amended, no claims are cancelled and no claims are added.

### **I. Rejections under 35 U.S.C. § 112**

Claim 14 is rejected under 35 U.S.C. § 112, second paragraph because the phrase “the acoustic environment equalizer” allegedly lacks proper antecedent basis.

In response, the Applicants have amended claim 14 to depend from claim 13. This amendment cures the antecedent basis issue in claim 14 as “an acoustic environment equalizer” is introduced in claim 13. Thus, “the acoustic environment equalizer” as recited in amended claim 14, now has proper antecedent basis. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of this claim.

### **II. Rejections under 35 U.S.C. § 102**

Claims 4, 8, 9, 11, 13, and 15-20 are rejected under 35 U.S.C. § 102(b) as being anticipated by “Using XML Schemas to Create and Encode Interactive 3-D Audio Scenes” by Guillaume Potard (hereinafter “Potard”).

To anticipate a claim, a single reference must disclose each element of that claim. Thus, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Also, “[t]he elements must be arranged as required by the claim.” *See In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990) and MPEP § 2131.

In regard claim 9, this claim has been amended to recite “wherein the sound source object processor further includes a motion processor analyzing a plurality of sound source data and the audio scene information, calculating a location of each sound source object moving with its particular trajectory, and modifying its trajectory under the control of the user through the user control unit.” This amendment is supported, for example, by original claim 12 and page 10, lines

15-19 of the Specification as filed. The Applicants submit that Potard fails to teach these elements of amended claim 9.

Potard discloses an object oriented 3-D sound descriptor scheme which allows the user to modify the attributes associated with sound sources. See Potard, Abstract and Introduction. Specifically, Potard discloses an XML based system which allows the user to modify sound characteristics, such as pitch, grouping, temporal behavior, etc. See Potard, § 2.1, § 2.5 and § 3.3. However, Potard fails to disclose calculating a location of each sound source object and allowing the user modify the trajectory of a moving sound source object as recited in amended claim 9. Allowing the user the ability to adjust the trajectory of sound objects provides the user with the capability to listen to the sound from a different perspective. By failing to disclose allowing a user adjust the trajectory of a sound object; Potard fails to teach each element of amended claim 9. Thus, amended claim 9 is not anticipated by Potard. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of this claim.

In regard to claims 16, 19 and 20, these claims have been amended to recite elements analogous to those of amended claim 9. For at least the reasons discussed above in regard to amended claim 9, Potard fails to disclose each element of these amended claims. Thus, claims 16, 19, and 20 as amended are not anticipated by Potard. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of these claims.

In regard to claims 4, 8, 11, 13, 15, 17, and 18, these claims depend from independent claims 9, 16 and 19, respectively, and incorporate the limitations thereof. The Examiner's argument assumes that Potard discloses all elements of amended claims 9, 16 and 19 which are incorporated in dependent claims 4, 8, 11, 13, 15, 17, and 18. However, as discussed above, Potard does not disclose all the limitations of amended claims 9, 16 and 19. Therefore, Potard fails to teach each element of claims 4, 8, 11, 13, 15, 17, and 18. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of these claims.

### **III. Rejections under 35 U.S.C. § 103**

Claim 14 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Potard in view of US Patent No. 6,498,857 issued to Sibbald (hereinafter "Sibbald"). Claim 3 is rejected under

35 U.S.C. § 103(a) as being unpatentable over Potard in view of US Publication No. 020050080616 by Leung et al. (hereinafter “Leung”). Claims 5 and 6 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Potard.

To determine obviousness of a claim: (1) factual findings must be made under the factors set forth in Graham v. John Deere Co., 383 U.S. 1, 148 USPQ 459 (1966); and (2) the analysis supporting the rejection under 35 U.S.C. § 103 should be made explicit and there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. See MPEP §§ 2141(II), 2141(III), and 2142; KSR International Co. v. Teleflex Inc., 82 USPQ2d 1385, 1396; see e.g., MPEP § 2143 (providing a number of rationales which are consistent with the proper “functional approach” to the determination of obviousness as laid down in Graham).

In regard to claims 3, 5, 6, and 14, these claims depend from independent claims 9, 13, and 19 and incorporate the limitations thereof. The Examiner’s argument assumes that Potard discloses all elements of amended claims 9, 13, and 19 which are incorporated in dependent claims 3, 5, 6, and 14. However, as discussed above, Potard does not disclose all the limitations of amended claims 9, 13, and 19. Further, Sibbald and Leung fail to cure the deficiencies of Potard. Therefore, the combination of Potard, Sibbald, and Leung fails to teach or suggest each element of claims 3, 5, 6, and 14. Thus, claims 3, 5, 6, and 14 are not obvious in view of the combination of Potard, Sibbald, and Leung. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the rejection of these claims.

#### **IV. Allowable Subject Matter**

Claim 12 is objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims. For the reasons provided above, claim 12 no longer depends from a rejected base claim as all the pending claims are now in condition for allowance. Accordingly, the Applicants respectfully request reconsideration and withdrawal of the objection to this claim.

Further, claim 12 has been amended to remove limitations of this claim that are now incorporated in claim 9.

### CONCLUSION

In view of the foregoing, it is believed that all claims now pending, namely claims 3-6, 8, 9 and 11-20, are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. Questions regarding this matter should be directed to the undersigned at (310) 207-3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

Dated: \_\_\_\_\_

*4/21/09*

By: \_\_\_\_\_

*[Signature]*  
Eric S. Hyman, Reg. No. 30,139

1279 Oakmead Parkway  
Sunnyvale, CA 94085-4040  
Telephone (408) 720-8300  
Facsimile (408) 720-8383

#### **CERTIFICATE OF TRANSMISSION**

I hereby certify that this correspondence is being submitted electronically via EFS Web to the United States Patent and Trademark Office on the date below.

*[Signature]*  
Jessica Hueter

*[Signature]*  
Date